

**TITLE 10. DEPARTMENT OF INSURANCE
STATE OF CALIFORNIA
45 Fremont Street, 21st Floor
San Francisco, California 94105**

**NOTICE OF PROPOSED REGULATORY ACTION AND
NOTICE OF PUBLIC HEARING**

File No. RH-396

SUBJECT OF HEARING

Notice is hereby given that the Insurance Commissioner will hold public hearings on April 24 and 25, 2001, at 10:00 a.m., in Los Angeles and San Francisco, respectively, regarding the proposed adoption of regulations pertaining to the licensing of rental car agents. Emergency regulations were filed with the Secretary of State on December 4, 2000, effective December 6, 2000, as California Code of Regulations (CCR), Title 10, Subchapter 1, Article 3.5, Sections 2130-2130.8.

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes the adoption of these regulations pursuant to the authority vested in him by the California State Legislature in Assembly Bill No. 62, Chapter 618 (1999-2000 session), Section 2. The purpose of these regulations is to implement, interpret, and make specific the provisions of California Insurance Code (CIC), Division 1, Part 2, Chapter 5, Article 16.6, Sections 1758.8-1758.891.

HEARING DATES AND LOCATIONS

The public hearings will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations at the dates, times, and places set forth below:

Date and time:	Tuesday, April 24, 2001 10:00 a.m.*
Location:	300 South Spring Street 1st Floor Hearing Room Los Angeles, CA 90013
Date and time:	Wednesday, April 25, 2001 10:00 a.m.*
Location:	45 Fremont Street 22nd Floor Hearing Room San Francisco, CA 94105

*The hearings will continue on the date noted until all testimony has been completed or 4:30 p.m., whichever is earlier.

ACCESS TO HEARING ROOM

The public hearing rooms are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the agency representative (listed below) for the hearings in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS; AGENCY CONTACT PERSONS

All persons are invited to submit written comments to the Insurance Commissioner on the proposed regulations. Comments should be addressed to the agency representative:

Cindy A. Ossias, Senior Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Phone: (415) 538-4124
Fax: (415) 904-5490
E-mail: ossiasc@insurance.ca.gov

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above no later than 4:30 p.m. on April 25, 2001. Any written materials received after that time will not be considered.

**WRITTEN COMMENTS SUBMITTED BY FACSIMILE OR E-MAIL
WILL BE ACCEPTED AND CONSIDERED. COMMENTS SUBMITTED BY
TELEPHONE ONLY WILL NOT BE CONSIDERED.**

All persons are also invited to present both oral and written statements, arguments, or contentions at the scheduled public hearings. The agency may impose reasonable limitations on oral presentations.

The following person will act as the backup agency contact person:

Jerry L. Whitfield, Assistant Chief Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Phone: (415) 538-4231
Fax: (415) 904-5490
E-mail: whitfieldj@insurance.ca.gov

QUESTIONS REGARDING REGULATIONS

The following staff member may be contacted with questions concerning the substance of the proposed regulations:

Dennis Ward, Chief, Licensing Services Division
California Department of Insurance
45 Fremont Street, 23rd Floor
San Francisco, CA 94105
Phone: (415) 538-4367
Fax: (415) 904-5889
E-mail: wardd@insurance.ca.gov

PRE-NOTICE PUBLIC DISCUSSIONS

Prior to publication of this notice, and in order to increase public participation and improve the quality of the proposed regulations, the Department involved members of the rental car industry in public discussions on Thursday, February 1, 2001, in its Sacramento offices, to learn how the emergency regulations could be improved and to discuss changes proposed by the public.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Existing Law

The Commissioner proposes the adoption of Title 10, Chapter 5, Subchapter 1, Article 3.5, Sections 2130 through 2130.8. The purpose of these regulations is to implement, interpret and make specific provisions of California Insurance Code, Sections 1758.8 through 1758.891.

Existing law, CIC §§1758.8-1758.891, requires that a rental car company be licensed by the Commissioner if it sells insurance after January 1, 2001. In addition, the statutes establish requirements for treatment of funds received from renters; that information, forms, policies, and training materials be filed with the Commissioner; that conditions be met by employees who offer insurance products as endorsees under the rental car agent license; that endorsees be trained and supervised; that five types of insurance may be sold by rental car companies; that disclosures be made to renters; and that licensees not exceed certain limitations. Finally, the statutes set forth penalties for violation of CIC §§1758.8-1758.891.

Existing law, CIC §§1758.8-1758.891, also requires the Commissioner to establish procedures for accepting and processing applications for rental car agent licensure, to determine appropriate license and renewal fees, to devise forms consistent with statutory requirements, and generally to implement and administer the article commencing with §1758.8. Assembly Bill No. 62, Chapter 618 (1999-2000 session), Section 2, requires the Commissioner to adopt regulations, on an emergency basis, to implement California Insurance Code Sections 1758.8-1758.891.

Regulations were adopted on an emergency basis on December 4, 2000, effective December 6, 2000. These emergency regulations will expire 120 days later. They are located at California Code of Regulations, Title 10, Subchapter 1, Article 3.5, Sections 2130-2130.8.

The presently proposed regulations are intended to comply with the statutory mandate on a permanent basis; the purpose of the proposed regulations is to replace the emergency regulations on a permanent basis. The proposed regulations differ from the existing emergency regulations in a few respects.

The regulations as they now exist set forth the legal basis of the Commissioner's authority to promulgate the regulations; define or make reference to definitions of terms used in CIC §§1758.8-1758.891 and the regulations that are not otherwise defined; clarify the entity or entities that must apply for the license to transact rental car insurance, and set forth some of the circumstances under which the business of transacting must be conducted; set forth the license application fee and the requirement of filing the fee with the application, and makes clear that investigation/enforcement costs are separate from the application fee; clarify necessary disclosures, and set forth the requirement of clear, conspicuous language in the disclosures, required by CIC §1758.86; make clear the circumstances under which the applicant must or is not required to submit training materials to the Commissioner; set standards for records maintenance and production to the Commissioner; describe the forms required by CIC §§1758.81 and 1758.82 and incorporate those forms by reference, thereby deeming the forms to be regulations, pursuant to 1 CCR §20; and provide specific deadlines and procedures designed to expedite the process of obtaining the rental car agent license, pursuant to Govt. Code, §15374 et seq.

The proposed regulations differ from the existing regulations in the following respects:

- (1) Section 2130.6(c) has been amended to additionally provide that records may be requested by the Commissioner in electronic and/or written format; and
- (2) Section 2130.7(f) has been amended to additionally require the list of authorized endorsees to be maintained in a format that can be transmitted to the Commissioner electronically and in hard copy or diskette, in commercial word-processing or spreadsheet form, however the Commissioner may request it, and, when requested, to be updated to include new endorsees, with authorization start and stop dates. The subsection also includes a note that the e-mail and regular mailing addresses to which the records must be sent will be available from the Department of Insurance by phone, in writing, and on the Department's website.

Objective of the Regulations

It is the objective of the proposed regulations to provide order on a permanent basis to the processes of licensing and maintaining the licenses of rental car companies that sell insurance in the State of California. The statutes established the basic requirements,

entrusting the Insurance Commissioner to interpret and make those requirements specific, and to implement the rental car agent licensing scheme as best he sees fit.

COMPARABLE FEDERAL LAW

There are no comparable federal regulations or statutes on the specific problem that the proposal addresses.

COST IMPACTS

The Insurance Commissioner has determined that these regulations do not impose any costs on or result in any savings to any state agency, local agency, or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, nor do the regulations cause any other non-discretionary cost or savings imposed on local agencies, nor do the regulations have any effect on federal funding to the state. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that is not required by statute. The proposed regulations will not impose mandates on local agencies or school districts.

COST IMPACT ON BUSINESS ENTERPRISES AND INDIVIDUALS

The regulations impose no costs on, and require no reports from, private persons or businesses that have not already been contemplated, imposed and required by California Insurance Code Sections 1758.8-1758.891. The regulations will not create or eliminate jobs, nor will they create new businesses or eliminate or expand existing businesses, within the State of California.

EFFECT ON SMALL BUSINESSES

The Department has determined that these regulations may affect small businesses.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND INDIVIDUALS

The Department has made an initial determination that adoption of these regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states

IMPACT ON HOUSING COSTS

The Department has made an initial determination that the proposed regulations will not affect housing costs.

ALTERNATIVES

The Department must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed action mandates the use of specific technologies or equipment, in that certain records are required to be maintained and transmitted electronically, in commercial word-processing or spreadsheet form, to the Insurance Commissioner upon his request. Pre-notice public discussion with the rental car community persuaded the Commissioner that this requirement would neither be burdensome to nor impose costs on the industry. The imposition of performance standards was considered and rejected as an alternative.

PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Those technical terms are defined in plain English.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared a separate document entitled "Initial Statement of Reasons" which sets forth the reasons for the proposed regulations. Copies of the Notice of Proposed Action, the proposed regulations, the Informative Digest, and the Initial Statement of Reasons may be obtained at no charge from the contact person listed above. Please reference the "RH-396" rulemaking proceeding when contacting the contact person.

ACCESS TO COPIES OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

Any interested person may inspect a copy of the Notice of Proposed Action, the proposed regulations, the Informative Digest, the Initial Statement of Reasons, the information upon which the proposal is based, and supplemental information contained in the rulemaking file by contacting the contact person listed above. The rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Please make arrangements with the contact person at least 24 hours in advance to view the rulemaking file. Please reference the "RH-396" rulemaking proceeding when contacting the contact person.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons, once it has been prepared, may be obtained from the Department upon request by mail, telephone, fax or e-mail by contacting the agency representative above.

AUTOMATIC MAILING

A copy of this Notice, the Informative Digest, the Initial Statement of Reasons and the proposed regulations will be sent to each person on the Insurance Commissioner's mailing list.

MODIFIED LANGUAGE

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

Dated: March 6, 2001

By: /s/
Cindy A. Ossias
Senior Staff Counsel